

by a short statement from the commissioners of the principles that controlled them in its preparation.

I learn from them that they have prepared in addition to this, "a Code of Criminal Procedure," "a Penal Code" and a revision, with amendments, of the general Statutes, all of which will be ready to be delivered to the Legislature in a few days.

Two hundred copies of this report are ready for delivery to the two Houses of the Legislature.

I have given some examination to this part of the labors of the Commissioners and believe that its adoption will be beneficial to the State. E. M. PEASE.

On motion the communication was referred to the committee on the Judiciary.

On motion of Mr. McDade, the Senate adjourned until Monday morning at 10 o'clock.

MONDAY, Nov. 26th, 1855-

The Senate was called to order by the President, pursuant to adjournment. Prayer by the Chaplain—Roll called—quorum present. The Journal of Thursday was read and adopted.

Mr Taylor of Cass presented the petition of John C. McCloskey, referred to the committee on Private Land Claims.

Mr Taylor also presented the petition of Josiah Gilbert, referred to the committee on Private Land Claims.

Mr Scott presented the memorial of sundry citizens of the town of Marshall, referred to the committee on State Affairs.

Mr Armstrong Chairman of the committee on Counties and County Boundaries, to which was referred A Bill to create the county of Commanche, A Bill to create the county of Erath, and A Bill to create the county of Wise, reported the same back and recommended their passage.

Mr Armstrong from the same committee, reported back for the consideration of the Senate, A Bill more particularly to define the western boundary line of Milam Land District.

Mr Armstrong, chairman of the committee on counties and county boundaries to which was referred the petition of the citizens of Chappel hill, reported the following Bill and recommended its passage.

A Bill for the incorporation of the Town of Chappel-hill, which was read 1st time.

Mr Potter chairman of the committee on the Judiciary to which was referred A Bill to prevent the carrying of concealed weapons, reported a substitute therefor, and recommend its adoption and passage.

Mr Armstrong from the committee on Internal Improvements to which was referred A Bill to amend an Act to provide for the construction of the Mississippi and Pacific Rail Road—reported that a majority of the committee recommended its passage.

Mr Maverick from the same committee reported the following minority report.

The undersigned minority of the committee on Internal Improvements, to whom was referred the Bill to repeal the 14th Section of the Act of the 5th Legislature for chartering the Mississippi and Pacific Rail Road, &c., are constrained by what they regard as a sacred duty, to dissent entirely from the conclusions of the majority; and they would offer this, as their protest against the proposed Legislation.

The undersigned regard it as a sound doctrine, that local, limited and partial convenience, as in this case, should never be suffered to stand in the way of the great and lasting good of the nation, or of the South, or of the State of Texas. Texas has for the last seventeen years, spread out her whole map to the locator; and she yet offers a boundless domain of hill and dale, outside of the Rail Road Reserve. But they must have the reserve right or wrong, and without regard to the policy of the State. The complaint of injustice to locators is clearly unfounded; and is, in most cases nothing but an artifice of the speculator as is clearly proven by the fact, that the desire to locate in that place, has sprung up mostly since the reservation, and upon the strength of the arguments urged by the friends of that measure.

All sorts of explorers, surveyors and rangers—the competent engineers of the Government—all men of science and practical sagacity,—in a word, the whole country, North and South, East and West, so fast and so far as they become acquainted with the facts, unite in one voice, to pronounce this to be the shortest, the least expensive, and most practicable of all the routes for a railway across the Continent. There is little reason to doubt that if there had been a route like this stretching out from the Ohio, it would have been well under progress of construction before now, in spite of the snows of that latitude: and such is its intrinsic merit and superiority, that there can be little doubt but the road will be made in a comparatively short time, in spite of the sparseness of our population—the smallness of our means, and of our weight in the scale of political influence. The interests of commerce, and more than that, if possible, the urgent requirements of the Federal Government itself, make it a matter of great importance that a road of this character be made; and if we do our duty in this matter, there is every reason to expect, that this route will be selected for the reason that it is the best. We have

it, anyhow, in our power to make the thing more probable, and to hasten the work sooner by offering the reserve lands as an inducement to run the road on our route.

That which was reserved by the Fifth Legislature, is a most remarkable belt of country. A rich and level plain extending from Red River to the Rio Grande; it has in the middle a good natural route for a waggon road, on and near latitude 32° North, with mountains on either hand but not in front. It stretches in the direction of the Gila, a river which heads close to the Rio Grande, and running west, has on its north side, the southern termination of the Rocky Mountains, and some way south of it, sets in at another angle, that other system of mountains—the Sierra Madre. The reserve, besides affording the best route, has the advantage of furnishing the most reliable means for making the road, or contributing largely to the work and expediting the undertaking. The last great use which the State will have, for the Rail Road reserve, is to apply it to the work of making all the other roads which we shall so much need, to connect the interior with the Gulf. Sooner or later the state must aid in this great business of inter communication. The people dislike taxation except when very moderate; and the only means left to the state besides taxation, (or with moderate taxes) is the Public Lands, and above all, the Rail Road reserve, a tangible, known, untouched property, that is confessedly available.

It would be idle to say, that because the charter of this road fell unluckily into the hands of men, who from incapacity or inability failed to comply with its requirements, therefore we shall never have the road, and that roads cannot be made by land donations. The reverse of the last proposition is fully proven in several instances, where the General Government's aid in giving six sections, alternately, not only helped the making of those roads, but actually paid their entire cost, through the increased value of the lands given. We are, so to say, founders of the State, and should legislate for posterity. We have to wait our turn in the progress of affairs; and should be careful to do nothing that could protract the time at which the state might safely undertake the improvements necessary to its development, and becoming its position and rank.

The Southern Route, passing through much sterile country, west of the Rio Grande, cannot in this age be made fertile by the population which will settle on the line of the road. There must be found some great necessity of state, otherwise the road will not for a long time be made. But your committee think there does exist a most urgent need for the Gen'l Government to connect the coast of the Atlantic with that of the Pacific; and that

it is the business of Texas to keep herself in a position ready to offer her lands and her track on latitude 32°, in co-operation with the Government and the Mercantile interest.

By lines of rail run from latitude 32° to the coast, there cannot be a doubt that our own ports being the first to be approached by trains turning down the Atlantic slope, will become the practical terminus of the Pacific road, as regards at least those heavy commodities which demand the cheapness of sea going vessels.

If we repeal the section in question, will it not be received as a signal that we have given up all hopes on the subject, and placed out of our power, our chief means for all sorts of Internal Improvements. The moral effect against us, would put to naught, as well our influence as our means for aiding in the Southern route. To repeal the Reserve, would be to be shorn of our strength, and to have this day, perhaps, noted in our calendar, as the black Monday, when the foundations of the Empire State of the South, were built a little and had stood a brief time—were hastily broken up into rubbish and built into a pig-pen. The chance which we have of being able to contribute to the strength and safety of the South; the mere possibility that by holding up the reserved lands, we shall have it in our power, at the proper time, to give direction to so potent a work, for the spread of knowledge, ought to prevent the repeal until after much reflection and more experience than we have yet had.

It requires firmness and forbearance, but doubtless it is our duty to say to the locators: "No gentlemen, look elsewhere for lands." This Reserve was put into our hands by a past legislation, in trust for posterity, and for the safety and glory of the South, and for the benefit of mankind at large. The Reserve is set apart to insure the making of the greatest thoroughfare yet seen, and which is to serve for commerce and travel, and for the spread of knowledge; a sort of artery for the circulation of a universal humanity. As trustees without limitation, we shall hold on for an age at least, before we shall despair. If life be short, art is long; and the cause of benevolence is eternal. Let us be sure to do what we conceive to be our duty, let come what will.

Two years are nothing in this matter; and the last two years have been peculiarly unfavorable for new or great undertakings requiring capital and financial confidence. To repeal the Reserve, (to say the least) would be to break up a policy without reason, and without allowing time enough to prove an experiment. The magnitude of the subject is such as to command at least caution. Nothing can be lost by postponing the action proposed by the majority of the committee. If they are right now,

it will hereafter more clearly be proven. But if, as the undersigned think, the committee have come hastily to a conclusion, that will hereafter be deplored as a great calamity. When carried out by the Legislature, there is abundant reason for postponing this action.

If the Bill had proposed the repeal of all the other sections but the 14th, then the undersigned would cheerfully have accorded to it their support; but since it has singled out for sacrifice the 14th section, they cannot refrain from imploring the Senate to save it from immolation: and they protest against it, as being impolitic, unwise and unjust—a most fickle and false policy.

S. A. MAVERICK,  
M. G. WHITAKER,  
M. W. ALLEN.

Mr. Guinn, chairman of the committee on Engrossed Bills, made the following report:

The committee on engrossed bills have examined the following bills and find them correctly engrossed:

A bill to incorporate Hopkin's Encampment, No. 7, of the Independent Order of Odd Fellows.

A bill to be entitled an act to establish and incorporate a literary Institution under the supervision and control of the Eastern Texas Annual Conference, located at or near the town of Gilmer, Upshur county.

A bill to establish and incorporate a literary Institution, under the supervision and control of the Eastern Texas Annual Conference, located at Starville, Smith county, Texas.

A bill to authorize the heirs of Martha Barker, or her assignees to raise a location therein named, and to locate the same on any vacant land.

A bill conferring power on county Courts, and town and city corporate authorities, to establish quarantine regulations.

A bill to be entitled an Act to incorporate the Austin city Bridge company.

Mr Russell, from the committee on Engrossed Bills, made the following report:

The committee on Engrossed Bills, have examined the following bills, to-wit:

A bill for the protection of the lands that have been, or may hereafter be granted for purposes of education.

A bill authorizing and requiring the Treasurer to transfer the specie in the Treasury, belonging to the school fund, &c.

A bill authorizing and requiring the Governor of the State to cause the unlocated balance of the University lands to be surveyed.

A bill to incorporate Lagrange Lodge, No. 30, of the Independent Order of Odd Fellows.

A bill for the relief of Noah Y. Byars.

A bill making an appropriation of seven thousand dollars, for the indemnification of the owners of slaves executed. And

A bill to be entitled an act to define the time of holding the District Courts in the county of Cameron, and find the same correctly engrossed. All of which is respectfully submitted.

Mr Scott, chairman of the committee on public lands, to which were referred a bill for the relief of Joseph Luce and Daniel Luce and the heirs of John Luce and the heirs of Abb Luce, Sr., and the heirs of Abb Luce Jr., and a bill supplementary to an act to establish and incorporate the college of DeKalb—approved January 16th, 1839, reported the same back and recommended their passage.

Mr Grimes offered the following resolution:

*Resolved*, That the committee on the judiciary be requested to take under consideration the propriety of so modifying the law granting trial by jury as not to require a concurrence of the entire jury to find a verdict, and that they be required to report by bill or otherwise.—*Adopted*.

Mr Pedigo introduced a bill to authorize William D Dillon to practice law. Read first time.

Mr Grimes introduced a bill to amend an act entitled an act to raise revenue by direct taxation; and a bill to incorporate the Lake Creek Bridge and Turnpike Company; each read first time. Mr Maverick introduced a bill to define the limits of Bexar county—read first time.

Mr Armstrong introduced a bill to create the eighteenth Judicial District—Read first time.

Mr Allen introduced a bill authorizing Glover Wells to construct a Bridge across the east fork of Trinity river.—Read first time.

Mr Superviele introduced a bill to procure from Mexico the original archives, orders, decrees, laws, rules, regulations, &c. Read first time.

Mr Superviele introduced a bill relating to the duties of assessors and collectors of taxes. Read first time.

Mr Scott introduced a bill to incorporate the city of Marshall. Read first time.

Mr Caldwell introduced a bill for the relief of the heirs of Andrew P Cunningham. Read first time.

Mr Caldwell introduced a bill for the relief of James Hall — Read first time.

Mr Guinn introduced a bill to change the name of Martha R Eppinger to Martha R Bonner. Read first time.

Mr Palmer introduced a bill for the relief of the heirs of Hervey Whiting. Read first time.

Mr Russell, by leave, presented the petition of Ira B Demint; referred to the committee on finance.

Mr Bryan offered the following resolution:

*Resolved*, That the committee on the public debt be required to examine into that class of the public debt now in the Auditor's office, known as spoliation claims, and classify the same, and at an early day, report to the Senate the amount and character of each class, and such other information on the subject as may be of interest.—Adopted.

A message was received from the House, informing the Senate that the House had passed a bill authorizing the Judge of the third Judicial District, to hold a term of said Court in Coryell county, on the 14th Monday after the 1st Monday in Sept. 1855. And a bill to incorporate the town of Cameron in the county of Milam, originating in the House.

A message was received from the Governor transmitting the following communication.

EXECUTIVE OFFICE. }  
Austin Nov. 24th, 1855, }

*Gentlemen of the Senate*

*and House of Representatives:*

I transmit herewith a further report from the Commissioners to prepare a Code amending, supplying, revising, digesting and arranging the laws, civil and criminal. This report contains "the Code of Criminal procedure" preceded by a statement from the Commissioners, of the principles on which they have acted in its preparation.

Two hundred copies of this report are ready for delivery to the two Houses of the Legislature.

From a careful examination of this Code, I have no hesitation in recommending it for your adoption.

E. M. PEASE.

On motion of Mr Potter, the communication was referred to the committee on the Judiciary.

#### ORDERS OF THE DAY.

A bill defining the 7th Judicial District and the time of holding courts in the same—read.

Mr Grimes amendment to insert "Madison" after "Grimes," was adopted, and bill ordered to be engrossed.

The motion to reconsider the vote which rejected a bill supplementary to the act of February 28th, 1840, concerning Wills,

and authorizing persons to dispose of their estate by Will, was taken up, and vote reconsidered. The bill was then passed by the following vote :

**YEAS**—Messrs Allen, Armstrong, Caldwell, Flanagan, Grimes, Guinn, Hill, Lott, Maverick, Millican, Palmer, Pirkey, Potter, Scarborough, Taylor of Houston, Weatherford and Whitaker—17.

**NAYS**—Messrs Bryan, Burroughs, Doane, Hord, McCulloch, McDade, Martin, Pedigo, Russell, Scott, Superviele, Taylor of Cass, Taylor of Fannin, Truit, White and Wren—16.

A bill to incorporate the Austin city bridge company. Read third time and passed by the following vote.

**YEAS**—Messrs Caldwell, Doane, Flanagan, Grimes, Guinn, Hill, Hord, Lott, McCulloch, McDade, Maverick, Millican, Palmer, Pirkey, Russell, Scarborough, Scott, Superviele, Taylor of Cass, Taylor of Houston, Truit, Weatherford, Whitaker and Wren—24.

**NAYS**—Messrs Armstrong, Bryan and Burroughs—3.

A bill to establish and incorporate a literary institute under the supervision and control of the Eastern Texas Annual Conference, located at Starrville, Smith county, Texas. Read third time and passed by the following vote :

**YEAS**—Messrs Allen, Bryan, Caldwell, Flanagan, Grimes, Guinn, Hill, Lott, McCulloch, Martin, Maverick, Palmer, Pirkey, Potter, Scarborough, Scott, Superviele, Taylor of Cass, Taylor of Houston, Truit, Weatherford, Whitaker, White and Wren—24. **NAYS**—Messrs Armstrong and Burroughs—2.

A bill to establish and incorporate a Literary Institution, under the supervision and control of the Eastern Texas Annual Conference, located at or near the town of Gilmer, Upshur county ; read third time, and passed by the following vote :

**YEAS**—Messrs Allen, Bryan, Caldwell, Flanagan, Grimes, Guinn, Hill, Lott, McCulloch, McDade, Martin, Maverick, Millican, Palmer, Pirkey, Potter, Russell, Scarborough, Scott, Superviele, Taylor of Cass, Taylor of Houston, Truit, Weatherford, Whitaker, White and Wren—27.

**NAYS**—Armstrong and Burroughs—2.

A bill to incorporate Hopkins' Encampment, No. 7, of the Independent Order of Odd Fellows ; read third time and passed by the following vote :

**YEAS**—Messrs Allen, Armstrong, Bryan, Caldwell, Flanagan, Grimes, Guinn, Hill, Lott, McCulloch, Martin, Maverick, Palmer, Pirkey, Potter, Russell, Scarborough, Scott, Superviele, Taylor of Cass, Taylor of Houston, Truit, Weatherford, Whitaker and White—25.

**NAYS**—Mr Wren—1.



A bill to incorporate LaGrange Lodge, No. 30, of the Independent Order of Odd Fellows; read third time and passed by the following vote:

YEAS—Messrs Bryan, Caldwell, Flanagan, Grimes, Guinn, Hill, Lott, McCulloch, McDade, Martin, Maverick, Millican, Palmer, Pirkey, Potter, Russell, Scarborough, Scott, Superviele, Taylor, of Cass, Taylor, of Houston, Truit, Weatherford, Whitaker and White—25.

NAYS—Messrs Armstrong, Burroughs and Wren—3.

The following bills were severally read a third time and passed, viz:

A bill conferring power on County Courts, and town and city corporate authorities to establish quarantine regulations.

A bill authorising and requiring the Governor of the State to cause the unlocated balance of the University lands to be surveyed.

A bill for the relief of Noah T. Byars.

A bill making an appropriation of seven thousand dollars for the indemnification of the owners of slaves executed.

A bill to define the time of holding the District Courts in the county of Cameron.

A Bill authorising and requiring the Treasurer to transfer the specie in the Treasury belonging to the School Fund to disbursement account, and replace the same with United States five per cent. indemnity bonds.

A bill for the protection of the lands that have been or may hereafter be granted for purposes of education.

And a bill to authorise the heirs of Martha Barker or assigns, to raise a location therein named and to locate the same on any vacant land.

Joint Resolution proposing an amendment to the Constitution; read.

On motion of Mr Martin, the resolution was amended by adding "for the use of said counties and political divisions."

The resolution was then ordered to be engrossed.

A bill for the relief of Thomas Williams and others, together with the report of the committee on the Judiciary, offering a substitute therefor, was read, and substitute adopted.

The bill was then rejected.

On motion of Mr Martin, the Senate adjourned until 9 o'clock to morrow morning.